

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

STEVEN PEREZ

Plaintiff

VS.

UNITED STATES OF AMERICA, et al.

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CIVIL ACTION NO. C-10-246

**MEMORANDUM OPINION AND ORDER DENYING MOTION TO AMEND TO
ADD AN INDISPENSABLE PARTY**

Plaintiff seeks to amend his complaint to add the Nueces County District Attorney's Office as an indispensable party (D.E. 54). Plaintiff claims that the District Attorney's Office failed to train and supervise its prosecutors, resulting in violation of his constitutional rights.

Leave to amend should be freely granted, unless the amendment would be futile. Central Laborers' Pension v. Integrated Elec., 497 F.3d 546 (5th Cir. 2007). The District Attorney's Office is not a person for purposes of a § 1983 lawsuit. Hudson v. City of New Orleans, 174 F.3d 677 (5th Cir. 1999). But even if plaintiff sought to add Nueces County as a defendant, or Carlos Valdez, the District Attorney in his official capacity, plaintiff's claims are still barred by Heck v. Humphrey, 512 U.S. 477, 114 S.Ct. 2364 (1994), because plaintiff has not demonstrated that his convictions have been dismissed

or overturned. Connors v. Graves, 538 F.3d 373, 377 (5th Cir. 2008). Amendment would be futile.

Accordingly, plaintiff's motion to amend (D.E. 54) is denied.

ORDERED this 8th day of July, 2011.


B. JANICE ELLINGTON
UNITED STATES MAGISTRATE JUDGE